

SENATE, No. 3599

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MARCH 18, 2019

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Co-Sponsored by:

Senator Stack, Assemblywoman McKnight and Assemblyman Spearman

SYNOPSIS

Revises neighborhood revitalization tax credit program to increase permitted annual tax credit allocation to \$15 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2019)

1 AN ACT concerning the neighborhood revitalization tax credit
2 program and amending P.L.2001, c.415.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 2 of P.L.2001, c.415 (C.52:27D-491) is amended to
8 read as follows:

9 2. As used in **【this act】** P.L.2001, c.415 (C.52:27D-
10 490 et seq.):

11 "Assistance" means the contribution of moneys to aid in the
12 provision of neighborhood preservation and revitalization services
13 or community services.

14 "Business entity" means any business firm or individual which is
15 authorized to conduct or operate a trade or business in the State and
16 is subject to taxes on business related income.

17 "Certificate for neighborhood revitalization State tax credits"
18 means the certificate in the form prescribed by the Treasurer and
19 issued by the commissioner to a business entity that specifies the
20 dollar amount of neighborhood preservation and revitalization State
21 tax credits that business entity may take as an annual credit against
22 certain State taxes pursuant to P.L.2001, c.415 (C.52:27D-
23 490 et seq.).

24 "Commissioner" means the Commissioner of Community
25 Affairs.

26 "Department" means the Department of Community Affairs.

27 "Eligible neighborhood" means: a. a contiguous area located in
28 one or more municipalities that, at the time of the application to the
29 department for approval of a neighborhood preservation and
30 revitalization plan, **【are either eligible to receive aid under the**
31 **"Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-**
32 **118.24 et seq.) or coextensive with a school district which qualified**
33 **prior to the effective date of P.L.2007, c.260 (C.18A:7F-43 et al.)**
34 **for designation as an "Abbott district" pursuant to the**
35 **"Comprehensive Educational Improvement and Financing Act of**
36 **1996," P.L.1996, c.138 (C.18A:7F-1 et al.)】** shall be designated by
37 the commissioner based on factors including, but not limited to,
38 population change, non-seasonal housing vacancy rates, total
39 household and child recipients of the Temporary Assistance for
40 Needy Families or a successor program, poverty levels,
41 unemployment rates, high school completion rates, median
42 household income, property tax rates, and equalized property
43 valuation per capita; or b. an area that (1) is adjacent to a
44 neighborhood that fulfills the requirements of subsection a. of this
45 definition, and has received approval of a neighborhood

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 preservation and revitalization plan pursuant to section 5 of
2 P.L.2001, c.415 (C.52:27D-494); (2) increases the area of the
3 adjacent eligible neighborhood by no more than 25 percent; and (3)
4 shares similar characteristics as determined by the commissioner or
5 the commissioner's designee.

6 "Housing and economic development activities" means those
7 activities carried out in furtherance of a neighborhood preservation
8 and revitalization plan in an eligible neighborhood approved
9 pursuant to P.L.2001, c.415 (C.52:27D-490 et seq.), to improve the
10 housing and economic conditions of the neighborhood; and shall
11 include, without limitation, measures to foster the rehabilitation and
12 construction of housing affordable to low and moderate income
13 households within the neighborhood, including planning, design,
14 rehabilitation, construction, and management of low and moderate
15 income housing, home buyer counseling, and related activities
16 needed to effectuate the rehabilitation and construction of housing
17 affordable to low and moderate income households; measures to
18 increase business activity within the neighborhood, including the
19 rehabilitation and construction of commercial facilities and the
20 provision of assistance to small business entities; and measures to
21 increase the income and labor force participation of neighborhood
22 residents, including provision of education, training, child care and
23 transportation assistance to enable low income neighborhood
24 residents to obtain or retain employment.

25 "Low income household" means a household whose gross
26 household income is less than 50 percent of the median gross
27 household income for the region in which the neighborhood is
28 located for households of similar size as determined by the
29 department.

30 "Moderate income household" means a household whose gross
31 household income is greater than or equal to 50 percent but less
32 than 80 percent of the median gross household income of the region
33 in which the neighborhood is located for households of similar size
34 as determined by the department.

35 "Neighborhood preservation and revitalization activities" means
36 housing and economic development activities and other
37 neighborhood preservation and revitalization activities.

38 "Neighborhood Revitalization Plan" means a plan for the
39 preservation or revitalization of an eligible neighborhood.

40 "Nonprofit organization" means a private nonprofit corporation
41 that has been determined by the Internal Revenue Service of the
42 United States Department of the Treasury to be exempt from
43 income taxation under 26 U.S.C.s.501(c)(3).

44 "Other Neighborhood Revitalization Activities" means those
45 activities, other than housing and economic development activities,
46 carried out in furtherance of a State-approved neighborhood
47 preservation and revitalization plan in a qualified low and moderate
48 income neighborhood, and may include, without limitation,

1 improvements to infrastructure, street scape, public open space, and
2 transportation systems; provision of social and community services,
3 health care, crime prevention, recreation activities, community and
4 environmental health services; and community outreach and
5 organizing activities.

6 "Qualified nonprofit organization" means a nonprofit
7 organization that has demonstrated a commitment to the
8 neighborhood for which it is submitting a plan or project, as
9 reflected in its past activities or proposed activities in a preservation
10 and revitalization plan.

11 "Qualified project" means one or more housing and economic
12 development activities and which may also include one or more
13 other neighborhood revitalization activities to be carried out in
14 accordance with a neighborhood revitalization plan as approved by
15 the commissioner with funds provided by a business entity eligible
16 to receive a certificate for neighborhood revitalization State tax
17 credits.

18 "Similar characteristics" means comparable socioeconomic
19 qualities as determined by the commissioner or his designee, using
20 the smallest Census unit for which data are available.

21 (cf: P.L.2009, c.120, s.1)

22

23 2. Section 3 of P.L.2001, c.415 (C.52:27D-492) is amended to
24 read as follows:

25 3. A business entity shall be eligible for a certificate for
26 neighborhood revitalization State tax credits if it has provided
27 funding for a qualified project that has been approved in accordance
28 with sections 4 and 5 of P.L.2001, c.415 (C.52:27D-493 and
29 C.52:27D-494).

30 a. Credits may be granted in an amount up to 100 percent of
31 the approved assistance provided to a nonprofit organization to
32 implement a qualified neighborhood preservation and revitalization
33 project.

34 b. The credit may be applied by the business entity receiving
35 the certificate as credit against tax imposed on business related
36 income including, but not limited to, business income subject to the
37 provisions of the Corporation Business Tax Act (1945), P.L.1945,
38 c.162 (C.54:10A-1 et al.), "New Jersey Gross Income Tax Act,"
39 N.J.S.54A:1-1 et seq., ["The Savings Institution Tax Act,"
40 P.L.1973, c.31 (C.54:10D-1 et seq.),] the tax imposed on marine
41 insurance companies pursuant to R.S.54:16-1 et seq., the tax
42 imposed on insurers generally, pursuant to P.L.1945, c.132
43 (C.54:18A-1 et seq.), the sewer and water utility excise tax imposed
44 pursuant to section 6 of P.L.1940, c.5 (C.54:30A-54) and the
45 petroleum products gross receipts tax imposed pursuant to section 3
46 of P.L.1990, c.42 (C.54:15B-3).

47 For a taxpayer applying credit to liability due pursuant to the
48 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the

1 credit allowed pursuant to this section shall only be applied to the
2 amount of gross income tax liability for the taxable year, which as a
3 percentage of gross income tax liability, is equal to the percentage
4 of the taxpayer's gross income that is attributable to the taxpayer's
5 business entity through which the taxpayer provided the funding for
6 the qualified project. For purposes of determining the amount of
7 gross income tax liability to which a credit allowed pursuant to this
8 section may be applied, gross income shall be calculated without
9 the application of exclusions or deductions.

10 c. The credit allowed to a business entity under this section
11 may not exceed for any taxable year \$1,000,000 or the total amount
12 of tax otherwise payable by the business entity for the taxable year
13 and, in addition, shall not exceed limitations placed on the amounts
14 of credits or carryforward credits allowed, if any, under the relevant
15 statute as enumerated in subsection b. of this section concerning the
16 tax for which a credit is being claimed.

17 d. Credit shall not be allowed for activities for which the
18 business entity is receiving credit under any other provision against
19 any tax on business related income including, but not limited to, the
20 corporation business tax, New Jersey gross income tax, corporate
21 income tax, insurance premiums tax, petroleum products gross
22 receipts tax, public utilities franchise tax, public utilities gross
23 receipts tax, public utility excise tax, railroad franchise tax, and the
24 saving institution tax.

25 e. The tax credit shall be awarded only for assistance provided
26 within the same year in which the commissioner issued the
27 certificate, or if the commissioner approved assistance for more
28 than one year, within the year in which payment was scheduled and
29 made. The provisions of this subsection may be waived for good
30 cause shown.

31 f. The total tax credits certified for all qualified projects
32 proposed in a fiscal year shall not exceed **[\$10,000,000]**
33 \$15,000,000.

34 (cf: P.L.2013, c.61, s.1)

35
36 3. Section 5 of P.L.2001, c.415 (C.52:27D-494) is amended to
37 read as follows:

38 5. a. The department shall determine whether a neighborhood
39 preservation and revitalization plan should be approved. The
40 department shall approve a neighborhood preservation and
41 revitalization plan if it satisfies the following standards:

42 (1) the plan designates an eligible neighborhood; and

43 (2) The plan was developed through a process that

44 (a) gave written notice to the municipality in which the
45 neighborhood is located of its intention to develop a plan and
46 utilized reasonable means to inform residents, property owners, and
47 businesses in the neighborhood of its intention to develop a plan

1 and provided opportunities for them to participate in the
2 development of the plan;

3 (b) gave written notice to the municipality in which the
4 neighborhood is located of the proposed plan and provided an
5 opportunity for it to comment upon it orally and in writing,
6 complied with all of the requirements of the "Municipal Land Use
7 Law," P.L.1975, c.291 (C.40:55D-1 et seq.) concerning the plan,
8 utilized reasonable means to inform residents, property owners, and
9 businesses in the neighborhood of the proposed plan and provided
10 an opportunity for them to comment upon it orally and in writing;
11 and

12 (c) involved consultation with nonprofit organizations located
13 within the neighborhood or providing services to residents of the
14 neighborhood;

15 (3) The plan is not inconsistent with

16 **[(a)]** any redevelopment plan adopted pursuant to the "Local
17 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
18 seq.), and currently being implemented **];** or

19 (b) any neighborhood empowerment plan approved by the State
20 pursuant to section 49 of P.L.1996, c.62 (C.55:19-64)**];**

21 (4) The plan sets forth an overall concept of the future of the
22 neighborhood; one or more strategies to foster preservation and
23 revitalization of the neighborhood in accordance with that concept;
24 one or more activities, including housing and economic
25 development activities and other preservation and revitalization
26 activities proposed within the neighborhood to foster preservation
27 and revitalization of the neighborhood in furtherance of those
28 strategies, including a description of funding sources obtained or to
29 be sought for the planned activities and a timetable for the conduct
30 of those activities; and

31 (5) The plan covers a period of **[no less than two and]** no more
32 than ten years.

33 b. A nonprofit organization may, in submitting a proposed plan
34 pursuant to P.L.2001, c.415 (C.52:27D-490 et seq.), adopt a
35 redevelopment plan adopted pursuant to the "Local Redevelopment
36 and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), and
37 currently being implemented **];** or a State-approved neighborhood
38 empowerment plan pursuant to section 49 of P.L.1996, c.62
39 (C.55:19-64)**]** , as its neighborhood preservation and revitalization
40 plan or a neighborhood preservation and revitalization plan
41 previously approved by the department.

42 c. A nonprofit organization that has submitted a neighborhood
43 preservation and revitalization plan to the department may seek to
44 amend it at any time. The department shall approve amendments if
45 they comply with the standards set forth in subsection a. of this
46 section.

47 (cf: P.L.2003, c.59, s.2)

1 4. Section 7 of P.L.2001, c.415 (C.52:27D-496) is amended to
2 read as follows:

3 7. a. The commissioner shall determine, in accordance with
4 law and regulation, whether to issue a certificate based upon
5 proposed assistance by a business entity to a nonprofit organization
6 to implement a qualified project.

7 b. The commissioner shall issue a certificate if the proposed
8 assistance satisfies the following standards:

9 (1) The assistance is to be used for a qualified neighborhood
10 preservation and revitalization project;

11 (2) The assistance is not less than \$25,000 in each tax year for
12 which credit is sought. Assistance may be approved for the current
13 tax year and up to four additional years in the future. If assistance
14 is approved for years other than the current tax year, the approval
15 shall include a schedule showing the amount of assistance to be
16 provided in each year;

17 (3) Neither the business entity nor any wholly owned subsidiary
18 has previously failed to provide assistance to a nonprofit
19 organization for which approval was granted. This requirement
20 may be waived by the department upon a showing of good cause;
21 and

22 (4) The total of all assistance approved on behalf of a nonprofit
23 organization per project does not exceed \$1,000,000.

24 c. Within **【60】** 30 days from the date of issuance of the
25 certificate, the business entity shall pay the amount specified in the
26 certificate that is due in the current tax year to the department for
27 deposit into the Neighborhood Revitalization Non-lapsing Trust
28 Fund created pursuant to section 5 of P.L.2003, c.59 (C.52:27D-
29 500). In the case of assistance approved for years other than the
30 current tax year, the business entity shall pay the amount specified
31 no later than the anniversary of the date on which the first payment
32 is due. The commissioner may extend the date payment is due for
33 good cause shown, but no extension shall be granted where the
34 business entity did not submit a written request for the extension at
35 least **【fifteen】** seven days prior to the date payment is due.

36 d. The commissioner shall issue certificates to business entities
37 applying for certificates and meeting the requirements of this
38 section, up to the maximum amount of tax credits permitted under
39 section 3 of P.L.2001, c.415 (C.52:27D-492), in the following
40 order:

41 (1) those business entities specifying a project which has been
42 approved by the department and providing assistance which is equal
43 to the amount requested by the nonprofit organization submitting
44 the project.

45 (2) those business entities not specifying a particular project, but
46 which are willing to provide assistance for approved projects
47 seeking assistance. The commissioner shall issue each business
48 entity providing assistance with a certificate specifying the project

1 to which the assistance will be provided and shall pool applications
2 by business entities in order to provide the amount of assistance
3 requested by each nonprofit organization submitting each project.

4 (3) those business entities not specifying a particular project, but
5 which are willing to provide assistance, and for which no project
6 approved by the department is available. The commissioner shall
7 issue the certificate without specifying the project to which the
8 assistance will be provided, and will deposit the amount set forth in
9 the certificate in the Neighborhood Revitalization Non-lapsing
10 Trust Fund created pursuant to section 5 of P.L.2003, c.59
11 (C.52:27D-500) in accordance with the provisions of this section.

12 e. In any year that the dollar amount of assistance sought by
13 approved projects shall exceed the amount of assistance available,
14 the department shall allocate any funds in the trust fund for which
15 no project has been specified to provide assistance to such projects.
16 At such time the department will issue the business entity an
17 amended certificate specifying the project for which the assistance
18 is being provided.

19 f. The department shall use any interest earnings on the funds
20 in the trust fund in any manner that lawfully furthers the purposes
21 of P.L.2001, c.415 (C.52:27D-490 et seq.), including, but not
22 limited to, providing funds to qualified entities to provide training
23 and technical assistance to nonprofit organizations eligible to
24 prepare plans and submit projects under P.L. 2001, c. 415
25 (C. 52:27D-490 et seq.).
26 (cf: P.L.2003, c.59, s.3)
27

28 5. Section 9 of P.L.2001, c.415 (C.52:27D-498) is amended to
29 read as follows:

30 9. a. In order to administer the neighborhood preservation and
31 revitalization tax credit program, the department shall establish any
32 necessary forms, procedures or rules to effectuate **[this act]**
33 P.L.2001, c.415 (C.52:27D-490 et seq.), in accordance with the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.). The department shall seek to foster use of the tax credit and to
36 make the tax credit simple to apply for and simple to use.

37 b. The department shall act as a clearinghouse. It shall maintain
38 lists of qualified projects and of business entities that have
39 expressed a desire to provide assistance to qualified projects. The
40 department shall pool applications from business entities in order to
41 provide assistance to qualified projects as provided in section 7 of
42 P.L.2001, c.415 (C.52:27D-496).

43 c. The department shall give priority in processing to
44 applications that demonstrate a multi-year commitment by the
45 business entity to implementation of the neighborhood preservation
46 and revitalization plan.

47 d. The department shall submit to the Governor and Legislature
48 an annual report which shall include at least:

- 1 (1) the purpose and effectiveness of the credit;
- 2 (2) the benefits of the credit to the State;
- 3 (3) any recommendations by the department as to changes in
- 4 legislation needed to better carry out the purposes of P.L.2001,
- 5 c.415 (C.52:27D-490 et seq.).
- 6 e. For each application by, or on behalf of, a business entity to
- 7 approve assistance for a project, the department may charge a fee of
- 8 up to **【1.5】** five percent of the amount of assistance proposed, or
- 9 approved, whichever is less, to pay for the administration of this
- 10 program. The department may require that up to one third of this
- 11 amount be paid at the time of submission of the application or
- 12 declaration of intent, and that the balance be taken from the amount
- 13 deposited into the trust fund upon deposit therein.
- 14 (cf: P.L.2003, c.59, s.4)

15

16 6. This act shall take effect immediately.

17

18

19 STATEMENT

20

21 This bill revises the neighborhood revitalization tax credit
22 program to increase the total amount of tax credits that may be
23 annually awarded, amend the definition of an eligible
24 neighborhood, and provide certain other changes.

25 The neighborhood revitalization tax credit program provides tax
26 credits to business entities that provide financial assistance to non-
27 profit organizations to support housing and economic development
28 projects in eligible neighborhoods. Under current law, the State
29 may annually allocate a maximum of \$10 million in neighborhood
30 revitalization tax credits. The bill increases this amount to \$15
31 million per fiscal year. This revision is intended to allow the State
32 to expend the \$15 million in neighborhood revitalization tax credits
33 that were anticipated in the FY2019 budget.

34 The bill also amends the definition of an “eligible neighborhood”
35 for the purposes of the neighborhood revitalization tax credit
36 program. Provided certain exceptions, an eligible neighborhood is
37 currently required to be located in: (1) a municipality that was
38 previously eligible for “Special Municipal Aid,” or (2) a school
39 district that previously qualified as an “Abbott district.”

40 The bill instead provides that an eligible neighborhood includes
41 any contiguous area located in one or more municipalities that is
42 designated by the Commissioner of Community Affairs based on
43 factors including, but not limited to: population change, non-
44 seasonal housing vacancy rates, total household and child recipients
45 of the Temporary Assistance for Needy Families or a successor
46 program, poverty levels, unemployment rates, high school
47 completion rates, median household income, property tax rates, and
48 equalized property valuation per capita.

S3599 SINGLETON

10

- 1 In addition, the bill makes the following revisions to the
2 neighborhood revitalization tax credit program:
- 3 (1) reduces the period of time in which a business entity is
4 required to provide program funding from 60 days to 30 days
5 following the receipt of a tax credit certification;
- 6 (2) reduces the period of time in which a business entity may
7 request a payment extension from 15 days to seven days prior to the
8 payment due date;
- 9 (3) increases the application fee that may be imposed by the
10 Department of Community Affairs to support the administrative
11 costs of the program;
- 12 (4) replaces reference to “neighborhood empowerment plans,”
13 which are no longer in effect;
- 14 (5) removes the requirement that a neighborhood preservation
15 and revitalization plan cover a period of no less than two years; and
- 16 (6) removes reference to “The Savings Institution Tax Act,”
17 which was repealed in 2002.